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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,160	03/29/2004	Simon J. Porter	H0002969 C1 (4760)	2480

7590 11/30/2004
Honeywell International Inc.
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EXAMINER

NORDMEYER, PATRICIA L

ART UNIT PAPER NUMBER

1772

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,160

Applicant(s)

PORTER, SIMON J.

Examiner

Patricia L. Nordmeyer

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on October 5, 2004 disclaiming the terminal portion of any patent granted on this application has been reviewed and is accepted. The terminal disclaimer has been recorded. The new claims 43 – 48 would also be included in the double patenting of Patent No. 6,726,968 to Porter and covered the above terminal disclaimer, thereby making claims 38 – 48 covered by double patenting rejection.

Withdrawn Rejection

2. The 35 U.S.C. 103 rejection of claims 38 – 42 over Bauer et al. is withdrawn due to Applicant's arguments in the paper dated October 5, 2004 with regard to the lack of an anti-fog composition and a container that is covered by the multi-layer film.

3. The nonstatutory double patenting rejection of claims 38 – 42 over Porter et al. is withdrawn due to the filing of the terminal disclaimer filed October 5, 2004.

4. The nonstatutory double patenting rejection of claims 38 – 42 Hatley et al. in view of Bauer et al. is withdrawn due Applicant's arguments in the paper dated October 5, 2004 with regard to the lack of an anti-fog composition and a container that is covered by the multi-layer film.

Repeated Rejection

5. The nonstatutory double patenting rejection of claims 38 – 41 over claims 1 – 20 of U.S. Patent No. 6,447,892 to Hatley et al. is repeated for reasons previous of record in the paper dated June 24, 2004.

In regards to claims 46 – 48, Hatley et al. discloses a nylon film made from nylon 6, nylon 6,6 or nylon 6/6,6 (Column 3, lines 46 – 48), a protective film of polyvinylidene chloride (Column 8, lines 20 – 24) or polyurethane (Column 5, line 35) and sealant film made from a low-density polyethylene, linear low-density polyethylene, or high-density polyethylene (Column 5, lines 11 – 20).

6. The 35 U.S.C. 102(e) rejection of claims 38 – 42 as anticipated by Hatley et al. is repeated for reasons previous of record in the paper dated June 24, 2004.

In regards to claims 43 – 48, Hatley et al. discloses a nylon film made from nylon 6, nylon 6,6 or nylon 6/6,6 (Column 3, lines 46 – 48), a protective film of polyvinylidene chloride (Column 8, lines 20 – 24) or polyurethane (Column 5, line 35) and sealant film made from a low-density polyethylene, linear low-density polyethylene, or high-density polyethylene (Column 5, lines 11 – 20).

Response to Arguments

7. Applicant's arguments filed October 5, 2004 have been fully considered but they are not persuasive.

8. With regard to Applicant's argument that the anti-fog component tends to be drawn towards the polar material such as nylon and away from non-polar materials and therefore the plastic material is rolled to keep the nylon from being in direct contact with the antifog containing layer while the references fail to show these features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the rolling of the film so that the nylon film is protected from the migration of the anti-fog composition by the protective film) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. Applicant's arguments filed in the paper dated October 5, 2004 with regard to the double patent and 35 U.S.C. 102(e) rejection of Hatley et al. have been fully considered but they are not persuasive.

In response to Applicant's argument that Hatley et al. does not disclose a protective film claimed but discloses a suitable oxygen barrier film, even though Hatley et al. does not use the term "protective layer", the multi-layer film contains a layer made with the same material as the

disclosed protective layer, which would perform the same duties as claimed protective layer since it is the desired material.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

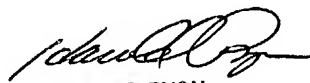
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 7:00-4:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patricia L. Nordmeyer
Examiner
Art Unit 1772

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HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

11/26/04